IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.Rev.Pet.No. 266 of 1999(C)

CRA.237/1995 of SESSIONS COURT, KOZHIKOE
CC.638/1993 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE

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REVN. PETITIONER/APPELLANT/ACCUSED:

SASINDRAN,
S/O.CHANDUKUTTY,
KAKKODI,
KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS/RESPONDENTS/COMPLAINANTS:

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1. S.I. OF POLICE,
VADAKARA.
2. STATE REP. BY PUBLIC,
PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.CIBI THOMAS
PUBLIC PROSECUTOR, SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

Crl. R. P. 266 of 1999

Dated this the 7th day of March, 2007

ORDER

The revision petitioner stands convicted for offence under Section 498-A IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for 3 months.

2. A compounding petition has been filed by the accused as well as the mother of the deceased. The same cannot be entertained as the offence under Section 498-A IPC is a non compoundable offence.

3. The counsel for the revision petitioner has stressed the point that there is no evidence to prove the immediate provocation for the act of committing suicide by the wife of the accused, by pouring kerosene over her body and setting ablaze. It is contended that it cannot be said that on account of the harassment made by the revision petitioner that his wife committed suicide. It is high lighted that as per Section 498-A, explanation (a), the alleged harassment should be of such a nature as is likely to drive the women to commit suicide .

4. The evidence adduced in the matter consisted of the testimony of PWs1 to 24, of whom, only PWs 1 to 7 have testified with respect to the incident. None of the above witnesses had seen the act of setting fire or as to what took place immediately preceding the above act of the deceased . It is PW2 the mother of the deceased, who had been most proximate to testify as to what happened inside the household. PW2-the mother has only stated that she was cooking food in the kitchen and heard the accused and deceased having exchange of words. She could not testify as to words spoken to by the deceased. The evidence of PW2 is to the effect that the deceased had undergone treatment for infertility and that the discord arose on account of the fact that the deceased could not conceive . She has also stated that the deceased had told her that the accused is having illicit relationship with another lady, and that he has got a child in that lady and that he had sought for bringing the other women to the house and to permit her to stay along with them. The rest of the witnesses are all persons who reached the spot on hearing the cry of the deceased and the witnesses had seen the deceased in flames and tried to put out the flames. The accused also tried to put out the flames and sustained injuries in his hands. PW16, the lady, allegedly having a child from the accused, turned hostile . She denied any intimacy with the accused, as well as the fact that the accused is the biological father

of her child. There is no allegation that accused has manhandled or tortured the deceased. The evidence of PW2 that the accused had sought for bringing into her household the other woman is not supported by any details, such as the date and time, when the deceased told her about the above suggestion of the accused. Going by only the above recital in the deposition of PW2, the mother of the deceased, it cannot be held that the prosecution has established, beyond reasonable doubt, the guilt of the accused. The accused is definitely entitled to the benefit of doubt. In the circumstances, the finding of the court below is liable to be set aside, as the same is not supported by sufficient evidence. The conviction and sentence made by both the courts below is set aside. The revision petition is allowed accordingly and the accused is acquitted.

K.R.UDAYABHANU, JUDGE

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